

# EXHIBIT 5

Bream, Tamara L.

January 11, 2013

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
NORTHERN DIVISION

FIRST DATA MERCHANT SERVICES  
CORPORATION, a Florida corporation,  
Plaintiff,

CIVIL ACTION

vs.

NO.: 1:12-cv-02568-RDB

SECURITYMETRICS, INC., a Utah  
Corporation,  
Defendant.

DEPOSITION OF: TAMARA L. BREAM

DATE: January 11, 2013

TIME: 12:56 PM

LOCATION: Hilton Garden Inn  
1575 Fording Island Road  
Hilton Head Island, SC

TAKEN BY: Counsel for the Defendant

REPORTED BY: SANDRA K. BJERKE, RDR, CRR, CBC

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1       that.

2               Q.     Okay. Does it say that in any other  
3       e-mail?

4               A.     I don't know.

5               Q.     Is it terribly unethical to offer  
6       service at a lower price?

7               A.     It's terribly -- my opinion is it's  
8       terribly unethical to use someone else's  
9       information to telemarket merchants.

10              Q.     Okay. How did SecurityMetrics obtain  
11       that information?

12              A.     They were given to First -- by First  
13       Data.

14              Q.     All right. And do you have an  
15       understanding as to whether -- that is, what scope  
16       of authorization SecurityMetrics has from FDMS with  
17       regard to the use of that information or that data?

18                     MR. HORN: Objection.

19                     THE WITNESS: I don't know.

20       BY MR. SEARS:

21              Q.     Okay. Has FDMS told Equity Payment one  
22       way or the other whether FDMS authorized

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1 SecurityMetrics to use that data for that purpose?

2 MR. HORN: Objection; asked and  
3 answered.

4 THE WITNESS: Could you read that to me  
5 again, please?

6 (The Court Reporter read the question  
7 commencing on Page 165, Line 9.)

8 THE WITNESS: As of July 26th, 2012?

9 BY MR. SEARS:

10 Q. Yes.

11 A. We were told that First --

12 SecurityMetrics was the -- we were told that the  
13 contract was severed between SecurityMetrics and  
14 First Data.

15 Q. And the inference Equity Payment drew  
16 from that was that SecurityMetrics was not  
17 authorized by First Data to use the merchant data  
18 to solicit Equity Payment's merchants?

19 A. Yes.

20 Q. Has Equity Payment ever communicated  
21 that understanding to FDMS?

22 That is to say, has Equity Payment ever

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1       communicated to FDMS that the -- that Equity  
2       Payment's understanding is that the severance of  
3       the contract between FDMS and SecurityMetrics  
4       terminated SecurityMetrics's authorization to use  
5       the merchant data to solicit Equity Payment's  
6       merchants?

7               **A.     Yes.**

8               **Q.     Is it still Equity Payment's**  
9       understanding today that the severance of the  
10      contract between FDMS and SecurityMetrics, that  
11      following that termination, SecurityMetrics has no  
12      authorization to use the merchant data provided by  
13      FDMS to solicit Equity Payment's merchants?

14              **A.     It's my understanding that**  
15      **SecurityMetrics -- once the contract was severed**  
16      **between SecurityMetrics and First Data, it was to**  
17      **no longer use that data.**

18              **Q.     That's your understanding still today?**

19              **A.     That seems to be in question.**

20              **Q.     All right. Why is it in question?**

21              **A.     SecurityMetrics -- and this is from**  
22      **what I understand.**

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1                   SecurityMetrics says there is an  
2                   agreement on the website that once a merchant goes  
3                   in and does a SAQ, that they -- that they now  
4                   agree -- and I can't tell you the verbiage -- that  
5                   there's an agreement between SecurityMetrics and  
6                   the merchant.

7                   Q.     Okay. Do you believe that FDMS has  
8                   authorized SecurityMetrics to use merchant data  
9                   obtained from FDMS to solicit Equity Payment's  
10                  merchants?

11                  A.     I believe --

12                  MR. HORN: Objection.

13                  THE WITNESS: I believe the First Data  
14                  authorized SecurityMetrics when they were under  
15                  contract that they could use that information.

16                  After the severance of the contract, I  
17                  can't speak to it, but the inference was that  
18                  SecurityMetrics was not to use that data.

19                  BY MR. SEARS:

20                  Q.     All right. And that's your  
21                  understanding today.

22                  A.     Yes.

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1 Q. All right.

2 (Exhibit 100, E-Mail Thread to  
3 Ms. Sumner from Ms. Bream dated 9-14-12, marked for  
4 identification.)

5 BY MR. SEARS:

6 Q. Ms. Bream, let me know when you've had  
7 a chance to familiarize yourself with Exhibit 100.

8 A. Okay.

9 Q. Is this an e-mail that you sent to  
10 Ms. Sumner at FDMS on September 14, 2012?

11 A. Yes.

12 Q. All right. Why did you forward this  
13 on -- sorry. Why did you send this e-mail?

14 A. The e-mail that I sent Denise  
15 references the e-mail below, which came from  
16 Superior Plumbing. And it is an e-mail from  
17 SecurityMetrics to Superior Plumbing on September  
18 14th, 2012, referencing their noncompliance fee  
19 deadline, when we had, in fact, talked to  
20 SecurityMetrics back in June about this exact same  
21 merchant.

22 Q. And what had you communicated to

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